

Pension Benefit Guaranty Corporation

§ 4007.8

providing record information in connection with a premium compliance review).) Unless an exemption applies, filing on paper or in any other manner other than by a prescribed electronic filing method does not satisfy the requirement to file. Failure to file electronically as required is subject to penalty under ERISA section 4071.

[71 FR 31081, June 1, 2006, as amended at 72 FR 71229, Dec. 17, 2007; 73 FR 15076, Mar. 21, 2008; 79 FR 13561, Mar. 11, 2014]

§ 4007.4 Where to file.

See § 4000.4 of this chapter for information on where to file.

[71 FR 31081, June 1, 2006]

§ 4007.5 Date of filing.

The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

[68 FR 61352, Oct. 28, 2003]

§ 4007.6 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part. However, for purposes of determining the amount of a late payment interest charge under § 4007.7 or of a late payment penalty charge under § 4007.8, the rule in § 4000.43(a) of this chapter governing periods ending on weekends or Federal holidays does not apply.

[68 FR 61352, Oct. 28, 2003]

§ 4007.7 Late payment interest charges.

(a) If any premium payment due under this part is not paid by the due date prescribed for such payment by this part, an interest charge will accrue on the unpaid amount at the rate imposed under section 6601(a) of the Code for the period from the date payment is due to the date payment is made. Late payment interest charges are compounded daily.

(b) With respect to any PBGC bill for a premium underpayment and/or interest thereon, interest will accrue only until the date of the bill if the premium underpayment and interest

billed are paid within 30 days after the date of the bill.

[61 FR 34020, July 1, 1996, as amended at 72 FR 71229, Dec. 17, 2007; 73 FR 15076, Mar. 21, 2008]

§ 4007.8 Late payment penalty charges.

(a) *Penalty charge.* Subject to the provisions of § 4007.13, if any premium payment due under this part is not paid by the due date under this part, PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The amount determined under this paragraph (a) will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of \$25 (or, if less, the amount of the unpaid premium). The penalty rate is—

(1) For any amount of unpaid premium that is paid on or before the date PBGC issues a written notice to any person liable for the premium that there is or may be a premium delinquency (for example, a premium bill, a letter initiating a premium compliance review, a notice of filing error in premium determination, or a letter questioning a failure to make a premium filing), 1 percent per month, to a maximum penalty charge of 50 percent of the unpaid premium; or

(2) For any amount of unpaid premium that is paid after that date, 5 percent per month, to a maximum penalty charge of 100 percent of the unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waivers.* PBGC will waive all or part of a late payment penalty charge if PBGC determines that there is reasonable cause for the late payment. Policy guidelines for applying the “reasonable cause” standard are in §§ 22 through 25 of the Appendix to this part.

(d) *Other waivers.* PBGC may waive all or part of a late payment penalty charge in other circumstances without regard to whether there is reasonable cause. Policy guidelines for waivers without reasonable cause are in

§ 4007.9

§ 21(b)(1), (b)(3), (b)(4), and (b)(5) of the Appendix to this part.

(e) *Grace period.* With respect to any PBGC bill for a premium underpayment, the PBGC will waive any late payment penalty charge accruing after the date of the bill, provided the premium underpayment is paid within 30 days after the date of the bill.

(f) *Filings not more than 7 days late.* PBGC will waive premium payment penalties that arise solely because premium payments are late by not more than seven calendar days, as described in this paragraph (f). In applying this waiver, PBGC will assume that each premium payment with respect to a plan year was made seven calendar days before it was actually made. All other rules will then be applied as usual. If the result of this procedure is that no penalty would arise for that plan year, then any penalty that would apply on the basis of the actual payment date(s) will be waived.

(g) *Variable-rate premium penalty relief.* PBGC will waive the penalty on any underpayment of the variable-rate premium for the period that ends on the earlier of the date the reconciliation filing is due or the date the reconciliation filing is made if, by the date the variable-rate premium for the premium payment year is due under § 4007.11(a)(1),—

(1) The plan administrator reports—

(i) The fair market value of the plan's assets for the premium payment year, and

(ii) An estimate of the plan's premium funding target for the premium payment year that is certified by an enrolled actuary to be a reasonable estimate that takes into account the most current data available to the enrolled actuary and that has been determined in accordance with generally accepted actuarial principles and practices; and

(2) The plan administrator pays at least the amount of variable-rate premium determined from the value of assets and estimated premium funding target so reported.

[64 FR 66385, Nov. 26, 1999, as amended at 65 FR 75164, Dec. 1, 2000; 71 FR 66869, Nov. 17, 2006; 72 FR 71229, Dec. 17, 2007; 73 FR 15076, Mar. 21, 2008; 79 FR 350, Jan. 3, 2014; 79 FR 13561, Mar. 11, 2014]

29 CFR Ch. XL (7–1–14 Edition)

§ 4007.9 Coverage for guaranteed basic benefits.

(a) The failure to pay the premiums due under this part will not result in a plan's loss of coverage for basic benefits guaranteed under section 4022(a) or 4022A(a) of ERISA.

(b) The payment of the premiums imposed by this part will not result in coverage for basic benefits guaranteed under section 4022(a) or 4022A(a) of ERISA for plans not covered under title IV of ERISA.

[61 FR 34020, July 1, 1996, as amended at 72 FR 71229, Dec. 17, 2007]

§ 4007.10 Recordkeeping; audits; disclosure of information.

(a) *Retention of records to support premium payments—*(1) *In general.* The designated recordkeeper under paragraph (a)(3) of this section must retain, for a period of six years after the premium due date, all plan records that are necessary to establish, support, and validate the amount of any premium required to be paid and any information required to be reported ("premium-related information") under this part and part 4006 of this chapter and under PBGC's premium filing instructions. Records that must be retained pursuant to this paragraph include, but are not limited to, records that establish the number of plan participants and that support and demonstrate the calculation of unfunded vested benefits.

(2) *Electronic recordkeeping.* A designated recordkeeper may use electronic media for maintenance and retention of records required by this part in accordance with the requirements of subpart E of part 4000 of this chapter.

(3) *Designated recordkeepers.*

(i) With respect to the flat-rate and variable-rate premiums described in § 4006.3 of this chapter, the plan administrator is the designated recordkeeper.

(ii) With respect to the premium for certain terminated single-employer plans described in § 4006.7 of this chapter, each person who was a contributing sponsor of such a plan, or was a member of a contributing sponsor's controlled group, as of the day before the plan's termination date is a designated recordkeeper.

(4) *Records.* (i) Records that must be retained pursuant to paragraph (a)(1) of